

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Augusta, Maine
1999

commissioners may not revise the budget adopted by the budget committee, except by unanimous vote of the commissioners elected. If the adopted budget is changed by the county commissioners, the budget committee may reject that change by a 2/3 vote of its membership. Those actions are final and are not subject to further action by either county commissioners or the budget committee. The proposed itemized budget and the capital improvement program submitted under subsection 1 must be finally adopted by a majority vote of the budget committee at a duly called meeting held before the end of the county's fiscal year.

Sec. 6. 30-A MRSA §725, sub-§6, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 7. 30-A MRSA §725, sub-§7, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

7. Assessment of taxes. The budget as approved by the Legislature under this article is the final authorization for the assessment of county taxes. The budget ~~shall~~ must be sent to the county commissioners and the county tax authorized ~~shall~~ be apportioned and collected in accordance with section 706.

Sec. 8. 30-A MRSA §725, sub-§9, as enacted by PL 1993, c. 573, §2, is amended to read:

9. Surplus funds. In developing the proposed itemized budget under this section, the ~~budget committee and the~~ county commissioners shall use 10% of any unencumbered surplus funds in excess of estimates from the previous fiscal year as reported in the audited financial report for that year to reduce the tax levy for the next year. The remaining unencumbered surplus funds may only be allocated for the following purposes:

- A. To further reduce the tax levy;
- B. To establish a capital reserve account under section 921 to fund items in the capital improvement program approved under subsection 5;
- C. To restore the contingent account as provided in section 922, subsection 2; or
- D. To fund the county charter commission as provided in section 1322, subsection 4.

Sec. 9. 30-A MRSA §726, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§726. Budget amendments

The approved budget ~~shall govern~~ governs the expenditures of the county during the fiscal year. No

expenses may be incurred in excess of those shown in the approved budget, but the county commissioners may transfer funds as provided in section 922, and the budget may be from time to time revised by the preparation and submission of a proposed amended budget by the county commissioners to the budget committee. The budget committee shall within 15 calendar days approve, disapprove or amend this revised budget. ~~If the proposed revised budget is approved or amended, the budget committee within this same time period shall forward the revised budget to the Legislature for final approval. The Legislature has 15 calendar days to approve or disapprove the revised budget. If the Legislature is not in session or does not approve the revised budget within this time, it is disapproved.~~ A report of approval of a revised budget ~~shall~~ must be transmitted to the State Auditor within 15 days of the Legislature's approval of ~~a~~ revised budget.

See title page for effective date.

CHAPTER 254

H.P. 535 - L.D. 742

An Act to Amend the Animal Welfare Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA c. 717 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 717

ANIMAL WELFARE ACT

Sec. 2. 7 MRSA §3909, sub-§3 is enacted to read:

3. Education requirement; management. A humane agent hired after January 1, 1999 shall attend a nationally recognized animal law enforcement training program of at least 40 hours' duration. A humane agent, regardless of date of employment, must receive related education periodically as determined by the department.

Sec. 3. 7 MRSA §3911, as amended by PL 1987, c. 643, §1, is further amended to read:

§3911. Dogs at large

It is unlawful for any dog, licensed or unlicensed, to ~~run~~ be at large, except when used for hunting. The owner or keeper of any dog found

running at large shall be is subject to the penalties provided in this chapter.

Sec. 4. 7 MRSA §3912, sub-§2, as enacted by PL 1997, c. 690, §10, is repealed and the following enacted in its place:

2. Ownership of dog known. An animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and, if the owner is known, shall:

A. Take the dog to its owner; or

B. Deliver it to an animal shelter as provided in section 3913. An animal shelter receiving a dog in accordance with this paragraph shall follow the procedure for stray dogs provided in section 3913.

Sec. 5. 7 MRSA §3923-B, sub-§2-A is enacted to read:

2-A. Rabies tags. An owner shall ensure that a rabies tag obtained from a veterinarian for immunization against rabies is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the rabies tag was issued, except as provided in subsection 3.

Sec. 6. 7 MRSA §3923-B, sub-§3, as amended by PL 1997, c. 690, §16, is further amended to read:

3. Exceptions. A dog is not required to wear a tag when on the premises of the owner or off the premises of the owner while hunting, in training or in an exhibition. When a dog is hunting, in training or in an exhibition, its owner or keeper shall produce proof of licensure and proof of rabies immunization within 24 hours upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.

Sec. 7. 7 MRSA §3942, first ¶, as amended by PL 1991, c. 779, §34, is further amended to read:

Municipal clerks shall issue dog licenses in accordance with chapter 721, receive the license fees and pay to the department ~~all fees received~~ \$6.50 for dogs capable of producing young and ~~\$2~~ \$1 from each license fee received for dogs incapable of producing young. The clerks shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed and the sex, registered numbers and description of all dogs except those covered by a kennel license. The clerks shall make a monthly report to the department on a department-approved form of all dog licenses issued and fees received.

Sec. 8. 7 MRSA §3961, as enacted by PL 1987, c. 383, §3, is amended to read:

§3961. Reimbursement for damage done by animals

~~When a dog does damage to a person or his property an animal damages a person or that person's property due to negligence of the animal's owner or keeper, the owner or keeper of the dog that animal is liable in a civil action to the person injured for the amount of damage done, provided that if the damage was not occasioned through the fault of the person injured.~~

Sec. 9. 7 MRSA §3962-A, as repealed and replaced by PL 1995, c. 351, §2, is amended to read:

§3962-A. Penalty for damage to livestock or pets by animals

1. Violation. Except as provided in subsection 3, the owner or keeper of ~~a dog~~ an animal that due to negligence of the animal's owner or keeper kills or injures livestock, poultry, domestic rabbits or pets commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged in addition to costs.

2. Additional remedy. A person who suffers damage as a result of a violation of subsection 1 may also pursue a civil action against the owner or keeper of the ~~dog~~ animal pursuant to section 3961.

3. Exception. If the owner or keeper of ~~a dog~~ an animal that kills or injures another ~~dog~~ animal establishes that the ~~dog~~ animal that was killed or injured provoked the killing or injury or that the ~~dog~~ animal that committed the killing or injury was leashed or controlled on the owner's or keeper's property at the time of the killing or injury, then the owner or keeper is not liable under this section or section 3961.

Sec. 10. 7 MRSA §4001, sub-§3, as enacted by PL 1987, c. 383, §3, is amended to read:

3. Fee. ~~No A fee is required of any applicant of \$10 must be submitted with any application for a calf or pig scramble.~~

Sec. 11. 7 MRSA §4011, sub-§1, ¶F, as amended by PL 1997, c. 456, §5, is further amended to read:

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter; ~~or~~

Sec. 12. 7 MRSA §4011, sub-§1, ¶G, as enacted by PL 1997, c. 456, §6, is amended to read:

G. Hunts or sells for the purpose of hunting any animal that is not covered by the provisions of Title 12, Part 10; ~~or~~

Sec. 13. 7 MRSA §4011, sub-§1, ¶H is enacted to read:

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition.

Sec. 14. 7 MRSA §4016, as amended by PL 1997, c. 170, §1, is further amended by adding at the end a new paragraph to read:

The court, as part of the penalty, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time, up to and including permanent relinquishment. The court as part of the sentence may order that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate, the court may order that the defendant receive psychiatric or psychological counseling at the defendant's expense.

Sec. 15. 7 MRSA §4041, as amended by PL 1997, c. 690, §§47 to 49, is further amended to read:

§4041. Animal trespass

1. Definitions. ~~As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:~~

~~A. "Animal control officer" or "law enforcement officer" means the animal control officer or law enforcement officer having jurisdiction over the area in which the livestock animal or domestic water fowl was found.~~

~~A.1. "Domestic water fowl" means domestic ducks, domestic geese and other domestic water fowl.~~

~~B. "Livestock animal" means dairy, feeding, beef or breeding cattle; horses; sheep; goats; donkeys; or swine~~

~~C. "Trespass" means that a livestock animal or domestic water fowl of an owner or keeper has entered or been found on the property of another person.~~

1-A. Trespass. An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by a law enforcement

officer or animal control officer that that animal was found on the property of another.

2. Removal. ~~The owner or keeper of a livestock animal or domestic water fowl~~ is responsible, at the owner's or keeper's expense, for removing any ~~livestock animal or domestic water fowl~~ found trespassing. An animal control officer or law enforcement officer may, at the owner's or keeper's expense, remove and control a ~~livestock animal or domestic water fowl~~ found trespassing if:

A. The owner or keeper fails to remove the ~~livestock animal or domestic water fowl~~ within 12 hours after having been notified by an animal control officer or law enforcement officer that a ~~livestock animal or domestic water fowl~~ owned or kept by the owner or keeper was trespassing; or

B. The ~~livestock animal or domestic water fowl~~ is an immediate danger to itself, persons or another's property.

3. Civil violation. A person commits a civil violation if a ~~livestock animal or domestic water fowl~~ owned or kept by that person is found trespassing and:

A. That person fails to remove the ~~livestock animal or domestic water fowl~~ within 12 hours after having been personally notified by an animal control officer or law enforcement officer that a ~~livestock animal or domestic water fowl~~ owned or kept by that person was trespassing; or

B. A ~~livestock animal or domestic water fowl~~ of that person had been found trespassing on a prior occasion within the 12 months immediately preceding the present trespass and the owner or keeper had, at that time, been notified by an animal control officer or law enforcement officer of that trespass.

4. Forfeiture. A forfeiture of not less than \$50 ~~or~~ more than \$500 must be adjudged for a civil violation under subsection 3. In addition, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the ~~livestock animal or domestic water fowl~~. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the owner against the offender based on the same facts.

5. Exemption. A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the

livestock or domestic water fowl animal to be on the property.

Sec. 16. 17 MRSA c. 42 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 42

ANIMAL WELFARE

Sec. 17. 17 MRSA §1011, sub-§1, as enacted by PL 1987, c. 383, §4, is amended to read:

1. Act. "Act" means the Animal Welfare Board Act.

Sec. 18. 17 MRSA §1011, sub-§7, as enacted by PL 1987, c. 383, §4, is repealed.

Sec. 19. 17 MRSA §1031, sub-§1, ¶F, as amended by PL 1997, c. 456, §14, is further amended to read:

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter; or

Sec. 20. 17 MRSA §1031, sub-§1, ¶G, as enacted by PL 1997, c. 456, §15, is amended to read:

G. Hunts or sells for the purpose of hunting any animal that is not covered by the provisions of Title 12, Part 10; or

Sec. 21. 17 MRSA §1031, sub-§1, ¶H is enacted to read:

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition.

Sec. 22. 17 MRSA §1035, sub-§2, as enacted by PL 1987, c. 383, §4, is amended to read:

2. Water. If potable water is not accessible to the animal at all times, it ~~shall~~ must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

Sec. 23. 17 MRSA §1035, sub-§3 is enacted to read:

3. Penalty. Failure to provide a sufficient supply of food or water is a Class D crime.

Sec. 24. 17 MRSA §1036, as enacted by PL 1987, c. 383, §4, is amended to read:

§1036. Necessary medical attention

~~No~~ A person owning or responsible for confining or impounding any animal may not fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. Failure to provide necessary medical attention is a Class D crime.

Sec. 25. 17 MRSA §1037, sub-§6 is enacted to read:

6. Penalty. Failure to provide shelter in accordance with this section is a Class D crime.

Sec. 26. 29-A MRSA §2085 is enacted to read:

§2085. Transporting dogs in open vehicle regulated

Transporting dogs in an open vehicle is governed by this section.

1. Definition. For the purposes of this section, "open vehicle" means a motor vehicle with a portion of the vehicle not enclosed by a top and windows or sides. "Open vehicle" includes, but is not limited to, pickup trucks and convertibles.

2. Restrictions. A person driving an open vehicle may not transport a dog in the open portion of that vehicle on a public way unless the dog is protected in a manner that prevents the dog from falling or jumping or being thrown from the vehicle.

3. Exceptions. Notwithstanding subsection 2, this section does not apply to:

A. A dog being transported by a farmer or a farm employee who is engaged in agricultural activities requiring the services of a dog; or

B. A hunting dog at a hunting site or being transported between hunting sites by a licensed hunter who is in possession of all applicable licenses and permits for the species being pursued during the legal season for that activity.

See title page for effective date.

CHAPTER 255

S.P. 262 - L.D. 757

An Act Concerning Recreational Clam Harvesting Licenses